

ROBERT S. TROY AND ASSOCIATES
ATTORNEYS AND COUNSELLORS AT LAW

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ROBERT S. TROY

April 7, 2005

Clerk's Office
Suffolk Superior Court
U.S. Post Office & Courthouse
8th Floor
90 Devonshire Street
Boston, MA 02109

RE: Steven Dearborn vs. Barnstable County Sheriff's Department,
et al
Suffolk Superior Court Civil Action No. SUCV2005-00258-D
U.S. District Court Civil Action No. 0510642WGY

Dear Sir or Madam:

Enclosed please find a certified copy of the Barnstable County Defendants' Notice of Removal to the United States District Court for the District of Massachusetts. Please forward certified copies of the docket entries in the above-referenced matter to my office, so that I may forward the same to the U.S. District Court pursuant to Local Rule 81.1. My office will reimburse the court for any photocopy charges.

Thanking you for your assistance in this matter, I am,

Very truly yours,

Robert S. Troy /c/l

Robert S. Troy

RST:cmh

Enclosure

cc: Mark Zielinski, County Administrator
Matthew J. Murphy, Esquire
Jim Hoffman
Steven Dearborn

FILED
CLERKS OFFICE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
105 APR -1 P 2:34

CIVIL ACTION NUMBER
DISTRICT COURT
DISTRICT OF MASS.

STEVEN DEARBORN, pro se
Plaintiff

05 CV 10642 WGY

Vs.

COMMISSIONER OF
CORRECTIONS, BARNSTABLE
COUNTY COMMISSIONERS,
BARNSTABLE COUNTY SHERIFF
AND BARNSTABLE COUNTY
HOUSE OF CORRECTIONS
SUPERINTENDENT,
Defendants



I hereby certify that the
 foregoing document is true and correct copy of the
 ☒ electronic docket in the captioned case
 ☐ electronically filed original filed on 4-1-05
 ☒ original filed in my office on 4-1-05

Sarah A. Thornton
Clerk, U.S. District Court
District of Massachusetts

By: [Signature]
Deputy Clerk

DEFENDANTS, BARNSTABLE COUNTY COMMISSIONERS,
BARNSTABLE COUNTY SHERIFF AND BARNSTABLE
COUNTY HOUSE OF CORRECTIONS SUPERINTENDENT'S
NOTICE OF REMOVAL

Defendants, Barnstable County Commissioners, Barnstable County
Sheriff and Barnstable County House of Corrections Superintendent
(hereinafter "Barnstable County Defendants") by their attorneys, hereby
give notice that pursuant to 28 U.S.C. §§ 1441 and 1446 this action is
removed to this Court from the Superior Court Department of the Trial

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Court of the Commonwealth of Massachusetts in and for Suffolk County.

As grounds therefor, Defendants state that:

1. Steven Dearborn (hereinafter "Dearborn") is an inmate of the Barnstable County House of Correction and Jail.
2. On or about January 21, 2005, Dearborn filed a Complaint in Suffolk Superior Court seeking damages for mental distress, emotional distress, embarrassment, pain and suffering, which he allegedly suffered while incarcerated at the Jail and allegedly required to shower while in handcuffs.
3. This Complaint was served on the Barnstable County Defendants on March 8, 2005.
4. Dearborn's Complaint stated that the Defendants violated his rights under the Eight Amendment to the United States Constitution.
5. Dearborn's claim is governed by the Prison Litigation Reform Act, 42 U.S.C. §§ 1997e et seq..
6. Dearborn has failed to comply with and exhaust administrative remedies in accordance with the Prison Litigation Reform Act, 42 U.S.C. §§ 1997e et seq..

7. Section 1141 of Title 28 permits the removal of "any civil action brought in a State court of which the district courts of the United States have original jurisdiction. . . ."
8. Section 1141(b) provides that "Any action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution . . . of the United States shall be removable without regard to the citizenship or residence of the parties."
9. Plaintiff's complaint seeks relief under the United States Constitution and federal statutes and therefore, presents a question of which the District Court has original jurisdiction.
10. Plaintiff alleges a violation of his constitutional right against cruel unusual punishment, a claim that necessarily requires interpretation of federal constitutional law, and therefore, a federal question.
11. Furthermore, before the plaintiff may proceed with a civil lawsuit, he is required to exhaust all remedies available to him under Prison Litigation Reform Act, 42 U.S.C. §§ 1997e et seq..
12. The plaintiff contends that he has exhausted all of said remedies, however, the County Defendants have raised as an Affirmative Defense the plaintiff's failure to exhaust all of the remedies available to him under Prison Litigation Reform Act, 42 U.S.C. §§

1997e et seq.. This will require an interpretation of federal law, and is therefore a federal question.

13. Since this Court has original jurisdiction of these claims pursuant to 28 U.S.C. § 1331, removal is proper under 28 U.S.C. §§ 1441 and 1446.
14. This Court has pendant jurisdiction over Dearborn's state law claims under 28 U.S.C. § 1441(c) and/or supplemental jurisdiction under 28 U.S.C. § 1367.
15. In accordance with 28 U.S.C. § 1446(a), copies of all documents served upon Defendants are attached hereto, as well as a copy of the County Defendants' Answer. Pursuant to Local Rule 81.1 attested copies of all of the pleadings and a certified copy of the docket sheet from the state court file shall be filed by the Defendants within thirty (30) days after the filing of this notice.

WHEREFORE, the defendants remove this action from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts in and for Suffolk County to the United States District Court for the District of Massachusetts.

Respectfully submitted,
For the Barnstable County
Defendants,
By their Attorney,



Robert S. Troy
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90 Route 6A
Sandwich, MA 02563
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BBO#503160

DATED: March 31, 2005

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4/28/05

U.S. District Court, MA

I am requesting a current copy
of the federal Liens that have
been filed against — UCC # IRS 95/0680

SS-016-36-6782 | John W Caezza
292 MAIN ST
MILFORD, MA 01757

Former Business

J&J TAXI Shuttle Service
EMP # 01-043/045

Any Questions
call (508)-478-8888

5/18-3

Thank You

John Caezza

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SARA A. LAROCHE
THOMAS E. LENT

E-MAIL: dlurie@luriekrupp.com

FAX COVER SHEET

DATE: April 28, 2005
TO: USDC Clerk's Office
FAX NUMBER: 617-748-9096
PHONE NUMBER:
FROM: David E. Lurie
MESSAGE: Request for Copy of Docket Entry.
Civil Docket No.: 00-12079
Document: #96 Motion in limine 11/8/00
Please call 617-367-1970 with payment details.
Thank you. Cynthia Pong.

NUMBER OF PAGES, INCLUDING COVER: 1

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